IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.599 OF 2006

Mr. Rajkumar R. Singh. ..Petitioner.

Vs.

The State of Maharashtra. ..Respondent.

Mr. A.M. Sarogi for the Petitioner.
Mr.S.S.Tatkare, APP. for the State.
Ms. Michile Merdoma for the NGO.
Mr.R.R.Singh-Petitioner present in person.

CORAM : R.S. MOHITE,J.
DATED : 27/4/2006.

P.C.

1. Heard both sides.

2. Rule.

3. By consent, rule made returnable forthwith.

4. This is a petition filed by the father of a girl by name Jyoti Rajkumar Singh for a direction to the respondent to handover the custody of his daughter Jyoti who is a victim in crime bearing LAC No.20/2006 registered by Santacruz Police Station. The contention of the petitioner is that he is the permanent resident of Agra and resides at the address given in the

petition. His daughter was an adult when the hotel premises at Juhu was raided. In that raid seven accused persons including the mother of Jyoti and the wife of the present petitioner were arrested and they are shown as accused. It is contended in the petition that since Jyoti was not minor she could not have been detained in the rehabilitation home. I had earlier called Jyoti in the chamber and heard her. She expressed her desire to leave with her father. The original complainant at whose behest trap was held by the police, named International Justice Mission Project, had taped the entire episode and I have seen the said tape. It does not contain any explicit admission to indicate that the girls shown in the tape were to be sold in alleged prostitution. It is true that the tape shows that monies are passed on but it also indicates that some of the accused person on being accosted with monies contended that the girls were called for the purpose of utilising their services in film industry. Be that as it may, in my order dated 10.4.2006, I had directed the Probation Officer or any Authorised officer to visit the home of the petitioner in order to conduct background check up and to file a report in this court. Pursuant to the order, the Probation Officer at the Government Special Rehabilitation Centre at Deonar contacted "Prayas

Institute of Juvenile Justice" New Delhi which is a registered non Government Organization to undertake a background check up of the petitioner. Report of the Prayas institute is placed before me which is taken on record and marked "X" for identification. The said report indicates the age of Jyoti is 19 years and the family background of the petitioner is alright. It is also concluded that the petitioner and his family wants Jyoti back home and want to get her married. The father of the girl was present in person in the court on the last occasion and today also. I had questioned him and he gives an undertaking to this court that his daughter will be well brought up in Agra and will not be sent back to Mumbai to live with his wife. The undertaking is accepted. Based upon the report of Prayas, Child Welfare Committee has made a report to this court dated 23.4.2006 which is taken on record and marked "X-1" for identification in which based upon the finding of Prayas, they have concluded that the petitioner is a fit person to receive the custody of his daughter. They have also ordered the petitioner to submit a progress report to the Probation Officer till the child turns 18 years of age. It further appears that Jyoti is already 19 years of age as per the report of Prayas. It appears that there is a dispute about the age of the girl and hence, I am not giving a

direction relating to the order passed by the Child Welfare Committee. Another aspect of the matter is that the girl in question is also an important witness in the main criminal case. There is likelihood that she might be tampered. In the circumstances, the Child Welfare Committee will be at liberty to send the Probation Officer to Agra and see that the girl is well treated and to ascertain as to whether any attempt is made to tamper her. The Advocate on behalf of the NGO agrees to bear the expenses of the Probation Officer. That will be the matter between the NGO and the Child Welfare Committee. If Probation Officer finds that any attempt is made to tamper the girl in question, he will forthwith get in touch with the Investigating Officer and file report in that regard.

5. In the circumstances, in my view since Jyoti who is now a major has expressed her desire to live with her father, she may be released. Accordingly, rule is made absolute in terms of prayer clause (a). The victim girl Jyoti be released forthwith and be permitted to proceed with the petitioner to Agra.

(R. S. MOHITE, J.)